

FILED

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JAN 19 2001

2001 JAN 19
IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DIST. OF ALA.DEBR. HALLABAMA
MIDDLE DISTRICT COURT
MIDDLE DISTRICT ALAFORM FOR USE IN APPLYING FOR
RELIEF (Civil Rights Litigation)Beverly Brabham 188338Full name and prison number
of plaintiff(s)State of Alabama and
Bullock County Circuit Court

Name of defendant(s)

Judge Bill Robertson Atty. Johnny Hagood
Judge Burt Smith
Judge Mike Emfinger
D.A. Boyd Whigham
JOHN WILL WATERSCivil Action No. 01-A-76 ✓
(To be supplied by Clerk of
U. S. District Court)

I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court
dealing with the same or similar facts involved in this
action? YES ☒ NO ()B. Have you begun other lawsuits in state or federal court
relating to your imprisonment? YES ☒ NO ()
federal habeas corpusC. If your answer to A or B is yes, describe each lawsuit
in the space below. (If there is more than one lawsuit,
describe the additional lawsuits on another piece of
paper, using the same outline.)

1. Parties to this previous lawsuit

Plaintiff(s) Beverly BrabhamDefendant(s) Leoneal Davis, et. al.Bill Pryor, State Atty. General2. Court (if federal court, name the district; if
state court, name the county) United StatesMiddle District Court

3. Docket number 99-T-1374-N

4. Name of judge to whom case was assigned _____

Judge John Carroll by Judge Albritten5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) The caseis still pending6. Approximate date of filing lawsuit November 22, 19997. Approximate date of disposition still pendingII. PLACE OF PRESENT CONFINEMENT Lutwiler Prison for WomenPLACE OF INSTITUTION WHERE GRIEVANCE OCCURRED BullockCounty Circuit Court, 217 No. Prairie St. Union Springs, Ala. 36089A. Is there a prisoner grievance procedure in this institution? YES () NO (☒)B. Did you present the fact relating to your complaint in the prisoner grievance procedure? YES () NO (☒)

C. If your answer is YES:

1. What steps did you take? I answered no, but I did file a state habeas corpus.2. What was the result? It was ignored by the state court.D. If your answer is NO, explain why not. There was no need to present their wrongs to them. They realize their wrongs, but did not believe the Plaintiff would continue to pursue justice.

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR

CONSTITUTIONAL RIGHTS Judge Bill Robertson - Eufaula, Ala. 36027Judge Brett Smithart, 217 N. Prairie St. Union Springs, Ala. 36089D.A. Boyd Whigham 217 N. Prairie St. Union Springs, Ala. 36089Judge Mike Emfinger 217 N. Prairie St. Union Springs, Ala. 36089John Will Waters Corecuh St. Union Springs, Ala. 36089Attorney Johnny Hagood, Eufaula, Alabama 36027

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED June 21, 1996 and March 25, 1999 until present

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION

THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED: (see attached sheets)

- A. The state court lacked jurisdiction on March 25, 1999.
I was resentenced on a case #96-54 that expired May 23, 1997.
Judge Gaither, who ended the sentence in 1997, will testify.
- B. Ex Post Facto. I was sentenced June 21, 1996 under
a law that became effective April 26, 1996. My accurate
occurred in 1995, 16 months prior to the law date.
- C. Double jeopardy - I was resentenced on an expired
case #96-54. The judge who terminated the sentence
remained in office for 2 years after it ended.

VI. STATE BRIEFLY (AND IN THE SAME ORDER) THE FACTS WHICH SUPPORT EACH OF THE GROUNDS SET OUT IN V. (State as best you can the time, place, manner and person involved.)

SEE ATTACHED SHEETS AT Pg. 8

- A. Jurisdiction - I was not under the jurisdiction of Bullock Co.
Circuit Court on March 25, 1999 when jeopardy attached. The
same D.A. was in office when it expired and was well aware
that it expired. He used his position in authority to bring this
- B. Criminal injustice and deprivation of liberty on the Plaintiff.
Ex Post Facto - there was NO EVIDENCE to EVEN bring a conviction.
Unlawful sentence - accused of a lie that was to have occurred in 1995
- C. Illegal sentence - ex post facto as well as the sentencing judge
suspended the sentence, remained suspended by Judge Gaither, and it
expired May 23, 1997. I was resentenced 2 years later by a third
judge, Burt Smithart.

VII. STATE THE NAMES AND ADDRESSES OF THE WITNESSES, IF ANY, WHO ACTUALLY OBSERVED THE VIOLATION OF WHICH YOU COMPLAIN AND WHOM YOU WOULD EXPECT TO USE AT A TRIAL OF THIS CAUSE:

- A. Anne Brabham 203 Chunnuggee Ave. Union Springs, Ala. 36089
- B. _____

- C. _____
- D. _____
- E. _____

VIII. STATE BRIEFLY (AND IN THE SAME ORDER) THE TESTIMONY OF EACH WITNESS LISTED IN VII, ABOVE:

- A. Anne Brabham has been present at every occurrence during this whole nightmare of a lie since June 1996. She was told that I could receive the death penalty if she did not talk me into pleading guilty. It was a heinous crime to do that to a mother who knew that her daughter was absolutely innocent of the accusation. Mrs. Anne Brabham has lived in Bullock County all of her life and is very aware of the years of corruption in the political system there.

IX. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

I would like compensatory damages. My life had been in SEVERE jeopardy and endangered by this illegal restraint of liberty by prison confinement. I would like Punitive damages due to that court acting deliberate, with ill will and malice. They abused their positions in authority to cause this severe damage and harm to me. I would also like permanent injunctive and declaratory relief. This suit is being brought against each individual defendant and the county in their official capacity as well as their personal capacity. I would like to request a jury trial to hear and award the damages, physical, mental, emotional, and SEVERE unlawful deprivation of liberty.

Beverly Brabham 188338
Signature of Plaintiff(s)

permanent address:
203 Chunnuggee Ave.
Union Springs, Alabama 36089

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

FILED

JAN 1 2001

2001 JAN 19 A 830

BEVERLY BRABHAM
Plaintiff

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALA.

CLERK
U.S. DISTRICT COURT
MIDDLE DIST. OF ALA.

V.

State of Alabama via
Bullock County Circuit Court, et al.

01-A-76-N
(to be supplied by Clerk of
U.S. District Court)

SECTION 42 U.S.C.S. 1983 COMPLAINT

The cause of this action is being brought by the Plaintiff under Section 42 U.S.C.S. 1983. This Honorable Court is provided with the basis of jurisdiction to hear the case under 28 U.S.C.S. 1343(3).

The Plaintiff, Beverly Brabham, presently has a federal habeas corpus case pending in this U.S. Middle District Court, and she requests that it be referred to for details concerning this action, if necessary.

The Plaintiff respectfully submits this application for relief.

Beverly Brabham

mailing address:

Beverly Brabham
203 Chunnenugee Ave.
Union Springs, Alabama 36089

SECTION U.S.C.S. 1983 COMPLAINT (continued from pg. 3)

On the enclosed form, Pg. 3# V, the Plaintiff began alleging the grounds on which she based that her constitutional rights have been and are being violated. She continues as follows:

- D. There is no evidence on the face of the indictment to have convicted her of stalking. The accusation was false, totally untrue.
- E. The June 21, 1996 guilty plea was unconstitutionally coerced, threatened, and Plaintiff intimidated by Judge Robertson, D.A. Boyd Whigham, ABI man who was present, and Atty. Johnny Hagood.
- F. Plaintiff pled guilty to the two phone calls she made to John W. Waters in 1995. She told of both, which neither were criminal, nor could they possibly be considered "stalking". No evidence of the two calls was submitted, as the prosecutor falsely presented at the hearing. The Plaintiff described both calls in her pending federal habeas corpus.
- G. Denied effective assistance of counsel. Atty. Johnny Hagood coerced a plea change from "NOT GUILTY" to "GUILTY, I GUESS", along with Judge Robertson and D.A. Boyd Whigham. He gave no defense of the Plaintiff, and his ineffective counsel resulted in severe harm and criminal injustice to the Plaintiff. He stated that it was not a case where the accuser needed to be present, and he did not defend her right to face him.
- H. Denied the right to face her accuser. The Plaintiff questioned this denial to their appointed attorney, Hagood, she was lied to by him, and she was never allowed to face him.
- I. Prosecutorial misconduct by use of false testimony and evidence by the D.A., referring to things which were not in evidence, i.e., tape recordings. The whole ordeal is nothing less than malicious prosecution, even until this moment of illegal incarceration.
- J. The acceptance of a guilty plea was against the weight of the evidence. There was no evidence to be presented because the accusation never occurred.
- K. Plaintiff's indigency was never questioned. The Court was determined to have their appointed counsel, with no consideration of Plaintiff's circumstances.

- L. Denied equal protection of the law in many areas. For example, the dismissal of X-husband's attempted murder, and violation and deliberate trampling of many Constitutional Rights of the Plaintiff.
- M. Denied the right to be present at the April 1, 1999 resentencing on Case # 96-54, due to the severe injuries of which the court was aware, but out of malice and vindictive motives, proceeded anyway.
- N. Denied representation by Counsel on March 17, 1999, March 25, 1999, and April 1, 1999. Judge Smithart would not allow her attorney the time it would take to get there.
- O. The plea of guilty was so severely coerced that the court record does not support a finding of guilt beyond a reasonable doubt.
- P. The Plaintiff was retried on March 25, 1999 (when jeopardy attached) for a March 17, 1999 misdemeanor, which had not been violated in the eight (8) days. The Plaintiff was resentedenced on expired Case # 96-54 as a result. At the hearing to reconsider the sentence in August 1999, the judge refused her Counsel to represent her.
- Q. Malicious prosecution of a conspired lie. The conspirators acted in concert, under the color of state law, to maliciously prosecute a conspired lie.

During all of this criminal injustice, the defendant's deprived the Plaintiff of her Civil Rights, secured by the federal Constitution. Since June 1996, the entire case has been 100% illegal. Nothing concerning the accusation is legal or lawful.

The Plaintiff prays that this Honorable Court see Pg. 4 #1X, and by jury trial, award compensatory, punitive, injunctive, and declaratory relief. It is improper for her to name a monetary amount. She also requests that the Honorable Judge refer to her federal habeas corpus for details of this complaint.

Respectfully Submitted,
Beverly Brabham 9